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10/086,820	03/04/2002	Neal R. Verfueth	OR-1-02	3419

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EXAMINER

HUSAR, STEPHEN F

ART UNIT PAPER NUMBER

2875

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/086,820

Applicant(s)

VERFUERTH, NEAL R.

Examiner

Stephen F. Husar

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3,5, and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "said socket mount/ wire raceway arms" in line 5. There is insufficient antecedent basis for this limitation in the claim. Is this the same as "socket mount/wire arms" set forth in lines 3-4? Clarification is required. Claims 2 and 3 are indefinite in that it is unclear whether the various elements set forth in these claims are new elements or elements set forth in claim 1 but not written in proper antecedent form to reflect their previous recitation in parent claim 1. For example, "elongated light reflectors" see claim 2, line 3 and "a reflector" see claim 3, line 3 both appear to be referring back to the "elongated light reflector" set forth in line 2 of parent claim 1 but the lack of antecedent format makes it unclear whether they further define the reflector of claim 1 or recite a totally new and different reflector from that of claim 1. Similarly, claims 5 and 6 are indefinite in that they too recite elements set forth in claim 1 but again not in antecedent form. Such examples are, "a plurality of elongated fluorescent tubes" claim 5, line 4 and "elongated fluorescent light tube reflector" claim 6, line 1. Clarification with regard to the antecedence in claims 2,3,5 and 6 is required.

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3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the necessary steps required to constitute a proper method claim. The limitations set forth in claim 4 are that of a lighting apparatus and not a method or process of focusing downlight as set forth in claim 4's preamble. A series of steps or actions must be set forth which one takes to focus a downlight and not a description of the downlight apparatus.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over RUSSO (4,435,744) in view of FIGUEROA (5,192,129). RUSSO shows in Fig.1 a

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fluorescent light fixture "10" having a reflector "84" which is attached at its ends to socket mount/wire raceway arms "12,14" and a ballast channel assembly "72,74" with a ballast "76" which attaches to the raceway arms "12,14". Fluorescent tube sockets "50" hold a plurality of fluorescent light tubes "86" which are inserted in the concave side of the elongated light reflector "84". RUSSO does not show a plurality of light reflectors but instead shows an integral reflector for both fluorescent light tubes. FIGUEROA teaches in Figs. 8 and 9, respectively, the equivalence between a single integral reflector such as RUSSO's reflector "84" and two reflectors joined by overlapping adjacent rim edges. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute for RUSSO's integral reflector "84" a plurality of reflectors joined by overlapping adjacent rim edges as taught by FIGUEROA for the purpose of providing a reflector which is shippable in a smaller container. With regard to claim 6, RUSSO's reflector is aluminum but not polished or metal coated plastic. FIGUEROA discloses in column 3, lines 7-18, that the reflector may be a plastic material with a reflecting material coated on the reflector by a known vacuum metalization process for the purpose of providing a lightweight reflector. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the reflector of RUSSO of a metal coated plastic as taught by FIGUEROA for the purpose of providing a lightweight reflector.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over RUSSO and FIGUEROA as applied to claim 1 above, and further in view of RODIN (4,928,209).

The combination of RUSSO and FIGUEROA shows the invention substantially as claimed except for the plurality of at least five and not more than eight elongated fluorescent light tubes. RODIN shows in Fig.1 an elongated fluorescent light fixture such as RUSSO and FIGUEROA having six elongated fluorescent light tubes to provide a wider area of light coverage. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the elongated fluorescent light fixture of RUSSO and FIGUEROA with six light tubes instead of two as shown by RODIN for the purpose of providing a wider area of light coverage.

***Allowable Subject Matter***

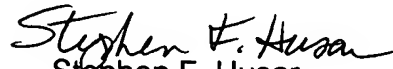
8. Claims 2 and 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Husar whose telephone number is 703-308-1932. The examiner can normally be reached on Monday-Friday from 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-872-9319 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Stephen F. Husar  
Primary Examiner  
Art Unit 2875

SFH  
June 16, 2003